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Testimony of David Powers,
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Oregon Board of Forestry
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Good morning Chair Hobbs and Board of Forestry members. My name is David Powers. I am the Regional Manager for Forests and Rangelands for the Environmental Protection Agency's (EPA) Region 10 Office. Thank you for the opportunity to share EPA's thoughts on the Rule Concepts draft reports.

As EPA noted in testimony at the October 21, 2004 joint Board meeting with the Environmental Quality Commission we generally support the proposed forestry rule changes that have been under consideration by the Board. We believe that there is a substantial body of science that demonstrates Oregon's existing forestry rules and best management practices do not consistently meet water quality standards or fully provide riparian functions important to water quality, public water supplies, and fish. We believe that protecting water quality and meeting salmon recovery goals on private forest lands in Oregon will require changes to the State Forest Practices Act (FPA).

Three of the rule concepts under consideration by the Board would help ensure a more consistent, broad-scale application of forest practices that have a higher likelihood of addressing water quality and aquatic habitat impairment on private forest lands than the existing rules. Adoption of new rules to implement concepts #3, #4, and #8 would make progress in addressing protection of riparian areas and high risk, landslide prone areas.

An extensive body of research, monitoring, reviews and assessments support the need for FPA rule changes regarding increased protection of riparian and landslide prone areas. The Governor's Independent Multidisciplinary Science Team report on FPA adequacy provides a strong basis for increased protection of riparian areas. A joint ODF/DEQ FPA sufficiency analysis highlights the high degree of uncertainty that riparian measures in the current FPA are adequate to meet water quality objectives on smaller streams. Improved forest management in riparian areas above human caused fish barriers is strongly supported by science, watershed restoration strategies and expenditures in Oregon, and Oregon Plan objectives.

EPA supports rulemaking on rule concepts #3, #4 and #8 because it would make incremental progress towards addressing shade, bank stability, sedimentation, large wood recruitment, and other functions critical to water quality and beneficial uses. While EPA is not confident that the proposed rule concepts alone will ensure attainment of water quality standards or full attainment of beneficial uses, their adoption as rules would be an important step towards meeting water quality standards, protecting public water supplies, and addressing aquatic habitat impairment on private forest lands.

Thank you again for the opportunity to comment on the draft reports for the three rules concepts. Additional, specific comments are provided below for concepts #3, #4, and #8.

Rule Concept Specific Comments:

Rule Concept #3 Riparian management above fish barriers - the benefits of this rule concept would be enhanced by requiring consistent broad scale rule application and by the use of uniform criteria in determining fish presence. As currently written, provision 11(e) provides no standard or quality assurance that the type of information or "other" processes that can be used to determine fish presence are scientifically credible. In addition, the exception provided by provision 11(f) could substantially negate the potential benefits of rule concept #3. We encourage the Board to eliminate or modify proposed Rule concept #3 provisions 11(e) and 11(f) to ensure consistent progress towards attainment of water quality and aquatic habitat goals.

Rule Concept #4 Wood from debris flows and landslides - the benefits of this rule concept would be enhanced if tree retention outside of riparian management areas in high risk, landslide prone areas that have the potential to deliver wood to streams were also required. The long-term retention of leave trees (through next rotation) should also be required in the rule.

Rule Concept #8 Basal area target increase for medium and small Type F streams - We recommend that the Board eliminate the sunset provisions for the increased basal area targets associated with Concept #8. The existing large wood deficiency documented on private forest lands and the long timeframe associated with recruitment of wood that will persist in streams warrant longer term rule adoption of the proposed increased basal area targets.

We understand the stated concern about reduced primary productivity from "too much shade" within riparian areas. We believe that a credible demonstration of too much shade has not been made, particularly at the landscape scale. The proposed basal area target increase for small and medium streams falls well below the basal area generally found in mature forest stands. The revised targets would also apply only in riparian management areas for Type F streams which usually constitute well under 10% of the land area in typical watersheds in Oregon. No basal area retention is proposed for Type N streams which make up a substantial percentage of the overall stream network. Blow down occurs frequently in riparian areas especially after adjacent regeneration harvest. Flooding, beaver, landslides, insects, and disease also reduce shade levels in riparian stands. Based on the above factors we believe that elevated stream temperatures, high sediment levels, unstable banks, large wood deficiencies, stream simplification, and other aquatic habitat impairments on private forest lands provide a sound basis for adopting higher basal targets for riparian areas. We believe that the benefits of increased riparian protection to water quality and aquatic habitat far outweigh potential concerns about reduced primary productivity.